

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

VCNCL, LLC d/b/a VINEYARD COURT
NURSING AND REHABILITATION CENTER
Employer

and

Case 15-RC-114384

RETAIL WHOLESALE AND DEPARTMENT
STORE UNION
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

MARK GASTON PEARCE, CHAIRMAN

HARRY I. JOHNSON, III, MEMBER

NANCY SCHIFFER, MEMBER

Dated, Washington, D.C., January 3, 2014.

¹ The fact that the unit found appropriate here was one directed by the Regional Director, instead of being the unit petitioned for by the Union, does not alter the applicability of *Specialty Healthcare and Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), enfd. sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013), and we treat the directed unit as the petitioned-for unit for purposes of the analysis. Cf. *Odwalla, Inc.*, 357 NLRB No. 132, slip op. at 4 fn. 27 (2011). Under the circumstances of this case, Member Johnson finds no need to express a view whether *Specialty Healthcare* was correctly decided and should be applied here. Even in Board precedent decided prior to that case, employees in all service and maintenance classifications have been regarded as a readily identifiable group appropriate for inclusion in a single bargaining unit, and licensed practical nurses (LPNs) have been excluded on community of interests grounds from such a unit. Although the exclusion is not automatic and the Regional Director's analysis of the relationship between excluded LPNs and unit employees was superficial, Member Johnson finds that the Employer has failed to present sufficient evidence for distinguishing this case from past cases in which LPNs were excluded.